

**PETROLEUM BILL**  
OF THE  
FEDERAL REPUBLIC OF SOMALIA



**2017**

Ministry of Petroleum & Mineral Resources

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# The Federal Republic of Somalia

Ministry of Petroleum & Mineral Resources

## **Petroleum Bill, 2017**

Pursuant to Articles 7(1) and 44 of the Provisional Constitution of the Federal Republic of Somalia, 2012, the Federal Parliament of the Federal Republic of Somalia enacts the following that shall have the force of law throughout the Federal Republic of Somalia:

### CHAPTER I--THE INITIAL STEPS OF THE PETROLEUM LAW

#### **Article 1**

##### **Foundation of the Petroleum Law**

In accordance with Articles 7(1) and 44 of the Provisional Constitution of the Federal Republic of Somalia, 2012, this Law shall apply in the Federal Republic of Somalia.

#### **Article 2**

##### **Ownership of the Petroleum**

Petroleum belongs to the Federal Republic of Somalia and the Regional Member States and it will be protected and distributed by the Government and its agencies in accordance with the laws of the Federal Republic of Somalia.

#### **Article 3**

##### **Distribution of Petroleum Income**

Petroleum income will be distributed between the Government and the Regional Member States for the benefit of the whole country in accordance with the Petroleum Management Revenue Sharing Agreement.

#### **Article 4**

##### **Methods of Securing and protecting the petroleum after extraction**

The Government is responsible to protect and secure, petroleum companies and drilling operations throughout the Federal Republic of Somalia.

## Article 5

### Environmental Protection

The Government, the Regional Member States and Authorised Persons shall protect the natural and built environment in accordance with the law of the Federal Republic Somalia and Best International Practice.

## CHAPTER II--GENERAL PROVISIONS

## Article 6

### Definitions

In this Law:

*"Authorisation"* includes a Reconnaissance Authorisation, a Surface Access Authorisation, a Production Sharing Agreement, or any permit made by the Government in respect of such an authorisation;

*"Authorised Area"* means the area from time to time which is the subject of an Authorisation;

*"Authorised Person"* means, in respect of any Authorisation, the Person to whom the Authorisation has been granted;

*"Best International Practice"* means in accordance with such practices and procedures employed in the petroleum industry worldwide by prudent and diligent operators under conditions and circumstances similar to those experienced in connection with the relevant aspect or aspects of the Petroleum Operations, principally aimed at guaranteeing:

- (a) conservation of Petroleum resources, which implies the utilization of adequate methods and processes to maximize the recovery of hydrocarbons in a technically and economically sustainable manner, with a corresponding control of reserves decline, using principles of maximum efficient production rates and other conservation principles, and to minimize losses at the surface;
- (b) operational safety, which entails the use of methods and processes that promote occupational security and the prevention of accidents;
- (c) environmental protection, that calls for the adoption of methods and processes which minimize the impact of Petroleum Operations on the environment;

*"Block"* means an area designated as a block on a map with defined coordinates designated by the Ministry pursuant to this Law for the purposes of an Authorisation;

*"Contract Area"* means the Block or Blocks awarded under an Authorisation;

*"Control"* means, in relation to a Person, the power of another Person to secure:

- (a) by means of the holding of shares or the possession of voting power, in or in relation to the first Person or any other Person; or
- (b) by virtue of any power conferred by the articles of association of, or any other document regulating, the first Person or any other Person, that the affairs of the first Person are conducted in accordance with the wishes or directions of that other Person;

*"Crude Oil"* means crude mineral oil and all liquid hydrocarbons in their natural state or obtained from Natural Gas by condensation or extraction;

*"Decommission"* means, in respect of the Authorised Area or a part of it, as the case may be, to abandon, decommission, transfer, remove and/or dispose of structures, facilities, installations, equipment and other property, and other works, used in Petroleum Operations in the Authorised Area, to clean up the Authorised Area and make it good and safe, and to protect the environment in accordance with the law;

*"Decommissioning Plan"* means the plan for shut-down of Petroleum Operations and continued use or removal of facilities relating to Petroleum Operations in accordance with Article 33 of this Law;

*"Development Plan"* means, means a plan accompanying an application for a development licence containing detailed proposal for construction, establishment and operations of all facilities and services for recovery, processing, storage, transportation of petroleum from the proposed development area and training and employment of Somalis;

*"Facility"* means:

- (a) any structure, device or other associated installations or infrastructure including pipelines, valve stations, pump stations, compressor stations and equipment constructed, placed or used in order to carry out Petroleum Operations;
- (b) vessel, vehicle or craft when stationary and used for drilling or support of ongoing Petroleum Operations; and
- (c) vessel, vehicle or craft for transportation of petroleum in bulk when connected to a Facility for loading of petroleum;

*"Graticulation"* means the division of the earth's surface into blocks for Petroleum Operations;

*"Government"* means the Government of the Federal Republic of Somalia acting through its appropriate officials, institutions, agencies or ministries, as determined by the Council of Ministers;

*"Inspector"* has the meaning given in Subsection 35(1);

*"Law"* means this Petroleum Law, as amended or modified from time to time;

*"Local Content"* means the quantum of composite value added to, or created in, the

economy of Somalia through deliberate utilization of Somali human and material resources and services in the Petroleum Operations in order to stimulate the development of capabilities indigenous of Somalia and to encourage local investment and participation;

*"Ministry"* means the ministry from time to time responsible for the administration of this Law, as established by the Government, and which shall initially be the Ministry of Petroleum and Mineral Resources;

*"Minister"* means the minister of the Government from time to time responsible for the administration of this Law, as established by the Government, and which shall initially be the Ministry of Petroleum of Mineral Resources;

*"Natural Gas"* means all gaseous hydrocarbons and inerts, including wet mineral gas, dry mineral gas, casing head gas and residue gas remaining after the extraction of liquid hydrocarbons from wet gas, but not Crude Oil;

*"Operator"* means an Authorised Person or other Person named in an Authorisation or unitisation agreement to organise and supervise Petroleum Operations;

*"Person"* includes a corporation or other legal entity;

*"Petroleum"* means:

- (a) any naturally occurring hydrocarbon, whether in a gaseous, liquid or solid state; or
- (b) any mixture of naturally occurring hydrocarbons, whether in a gaseous, liquid or solid state.

*"Petroleum Operations"* means activities for the purposes of:

- (a) prospecting for Petroleum;
- (b) exploration for, development, production, sale or export of Petroleum; or,
- (c) construction, installation or operation of any structures, facilities or installations for the development, production, transportation and export of Petroleum, or Decommissioning or removal of any such structure, Facility or installation;

*"Production Sharing Agreement"* means an agreement made or given pursuant to Article 19, pursuant to which the Authorised Person receives a share of the Petroleum resulting from the conduct of Petroleum Operations as compensation for its activities;

*"Public Officer"* means a person holding or acting in an office of emolument in the public service, and includes officers at the local government level, and include members and staff of the Somalia Petroleum Authority and the Somali National Oil Company;

*"Reconnaissance Authorisation"* means an authorisation granted pursuant to Article 18;

*"Regulations"* shall mean those rules and regulations issued from time to time by the Ministry with respect to the management of Petroleum Operations, as contemplated by this

Law;

*"Reservoir"* means a porous or and permeable underground formation containing an individual and separate natural accumulation of producible hydrocarbons (oil and/or gas) that is confined by impermeable other rock and/or water barriers and is characterized by a single natural pressure system;

*"Subcontractor"* means any business entity hired by an Authorised Person to carry out all or a portion of Petroleum Operations as approved by Authorised Person under the terms of the Authorisation;

*"State-Owned Contractor"* means a Person incorporated under the laws of Somalia which is Controlled, directly or indirectly, by a government of a Federal Member State;

*"Somalia Petroleum Authority" or "SPA"* means the authority established pursuant to Article 13;

*"Somali National Oil Company" or "SONOC"* means the corporation established pursuant to Article 14;

*"Surface Access Authorisation"* means an authorisation granted pursuant to Article 20;

*"Territory of Somalia"* consists of all lands and waters over which Somalia has sovereignty, including its territorial sea and its continental shelf, and further includes its exclusive economic zone where, pursuant to accepted norms of international law, Somalia has sole and exclusive rights for the purposes of exploring for, developing and producing its natural resources; and,

*"Well"* means a perforation in the earth's surface dug or bored for the purpose of producing Petroleum.

## **Article 7**

### **Purpose**

This Law shall have as its purpose:

- (a) to confirm the sovereign rights of Somalia to explore, develop, produce, utilize and manage its Petroleum resources, located onshore and offshore;
- (b) to allow efforts to be undertaken to determine the extent of the Petroleum resources which may exist in Somalia, by creating a regulatory, contractual and financial regime that allows the reconnaissance and exploration of Petroleum, and development, production and marketing of any Petroleum which is discovered;
- (c) if Petroleum resources are discovered in Somalia, to provide maximum benefit to

Somalia and its people from the development and production of Petroleum;

- (d) to ensure the protection, conservation and preservation of the environment in the conduct of Petroleum Operations;
- (e) to encourage and support foreign investment which occurs to attain the other purposes of this Law;
- (f) to establish the Somalia Petroleum Authority as the competent regulatory authority to regulate Petroleum Operations, applying regulatory principles of equality, openness, accountability, transparency and non-discrimination;
- (g) to establish the Somali National Oil Company as an entity Controlled by the Government for the participation in Petroleum Operations in Somalia;
- (h) to comply with international initiatives to ensure transparency of extractive industries, by enhancing public financial management and accountability, recognizing that management of natural resource wealth for the benefit of Somali citizens is in the domain of the Government, to be exercised in the interests of national development; and
- (i) to ensure fair treatment of specified persons holding rights pursuant to Petroleum grants made by the Somali Democratic Republic on or before December 30, 1990.

## **Article 8**

### **Territorial Scope of Law**

This Law applies to the Territory of Somalia.

## **Article 9**

### **Material Scope of Law**

- (1) *Scope.*

This Law applies to Petroleum Operations.

- (2) *Other Minerals.*

The existence of an Authorisation in force in a given area does not prevent authorisation of the exploration and production of mineral substances other than Petroleum, provided that Petroleum Operations take precedence and such other activity does not hinder the proper performance of the Petroleum Operations.



## **Article 10**

### **Title to Petroleum**

(1) *Title to Petroleum.*

Title to, and control over, Petroleum in the Territory of Somalia are public property and are vested in Somalia, in trust for its people.

(2) *Transfer of Title after Recovery.*

A Person may acquire title to Petroleum only after it has been lawfully recovered under a Production Sharing Agreement issued pursuant to this Law.

## **Article 11**

### **Exercise by SPA and the Ministry of its Powers and Functions**

(1) *Exercise of Power and Functions.*

The Somalia Petroleum Authority and the Ministry shall exercise their powers and discharge their functions under this Law and the Regulations, including under Authorisations made hereunder, in such a manner as:

- (a) to ensure sound resource management;
- (b) to ensure that Petroleum is developed in a way that minimises damage to the environment in accordance with the law, is economically sustainable and contributes to the long-term development of Somalia;
- (c) is reasonable; and
- (d) is consistent with Best International Practices.

(2) *Opportunity for Representations.*

Before exercising any such power or discharging any such function, the Somalia Petroleum Authority and the Ministry may give opportunity to Persons likely to be affected to make representations to it, and shall give consideration to the relevant representations received by it.

## **Article 12**

### **Functions of the Ministry**

(1) *Functions of the Ministry.*

The Ministry shall perform the following functions:

- (a) make decisions on strategies, plans and policies for the development of the Petroleum industry;
- (b) issue regulations with respect to the management of Petroleum Operations as recommended to the Ministry by the Somalia Petroleum Authority as contemplated by this Law;
- (c) make decisions on policies and forms of cooperation with foreign entities, and;
- (d) manage the process of substituting Production Sharing Agreements for rights granted by the Somali Democratic Republic on or before December 30, 1990, as contemplated by Article 45;

(2) *Additional Functions.*

The Government may confer on the Ministry such additional functions in relation to the regulation and monitoring of Petroleum Operations and, where appropriate, associated matters connected with the functions for the time being of the Ministry as are appropriate.

(3) *Ministry Confidentiality.*

When Public Officers perform their lawful functions, they shall be obligated to maintain the confidentiality of commercial secrets of persons and enterprises of which they become aware where the Ministry is satisfied that:

- (a) disclosure of the information could reasonably be expected to result in a material loss or gain to a person directly affected by the functions of the Ministry, or could reasonably be expected to prejudice the person's competitive position; or
- (b) the information is financial, commercial, scientific or technical information that is confidential information supplied to the Ministry and the information has been consistently treated as confidential information by a person directly affected by the functions of the Ministry, and the Ministry considers that the person's interest in confidentiality outweighs the public interest in disclosure.

## **Article 13**

### **Establishment and Functions of Somalia Petroleum Authority**

(1) *Establishment of SPA.*

The Somalia Petroleum Authority is established by this Law as the competent regulatory authority to regulate Petroleum Operations.

(2) *Time of Formation.*

The SPA shall be formed and be entitled to exercise its powers upon the approval of the Parliament and signature of the President of the Federal Republic of Somalia at a date specified by the Government. Until that date, the functions and powers of the SPA shall be exercised by the Petroleum Regulatory Affairs department of the Ministry, and the other provisions of this Law shall be read accordingly. The Government shall cause the SPA to be formed once it is satisfied that the quantity of Petroleum Operations in Somalia are sufficient to justify the costs of establishing the SPA.

(3) *Membership of SPA.*

- (a) The SPA shall consist of nine (9) members. Three (3) members shall be appointed by the Government with each one of the remaining six (6) appointed by each of the six (6) oil producing Regional Member States which that member will represent.
- (b) A quorum of the SPA shall be constituted by three (3) members.
- (c) The membership of the SPA shall have regard to gender balance.
- (d) Members shall hold office during good behavior for a period of at least four years, but may be removed for cause at any time by the Government. Cause for removal shall include any breach of subsections 13(8) or 13(9) or ceasing to be eligible to be a member under subsection 13(5).

(4) *Staff of SPA.*

- (a) The Secretary-General and the other staff necessary for the proper conduct of the business of the SPA shall be appointed by the members of the SPA.
- (b) The Secretary-General shall be the Head of the Spending Agency and a full time employee of the SPA.
- (c) The Secretary-General shall have shall have proven experience and qualifications in any of the following—
  - (i) petroleum geosciences or engineering;
  - (ii) health, safety and environment matters;
  - (iii) law;
  - (iv) business administration or management;
  - (v) finance or economics; or,
  - (vi) chemical and process or refinery engineering.

(5) *Qualifications of Members.*

- (a) The members shall have high moral character, proven integrity and competence.
- (b) All members shall be Somali citizens.
- (c) A person shall not be appointed or to continue as a member of the SPA if that person is an owner, shareholder, director, officer, partner or otherwise, engaged in the business of producing, selling, buying, transmitting, exporting,

importing or otherwise dealing in Petroleum in Somalia or holds any bond, debenture or other security of a corporation engaged in any such business.

- (d) The Person has not been convicted of an offence under this Law or of an offence involving dishonesty or fraud by a competent court in Somalia or outside Somalia.

(6) *Qualifications of Staff.*

- (a) A person shall not be appointed or to continue as staff of the SPA if that person is an owner, shareholder, director, officer, partner or otherwise, engaged in the business of producing, selling, buying, transmitting, exporting, importing or otherwise dealing in Petroleum in Somalia or holds any bond, debenture or other security of a corporation engaged in any such business.
- (b) Any appointment to service in the SPA shall be based on merit.

(7) *SPA Chair.*

- (a) The Government with the approval of the President, shall designate one of the members to be Chairperson of the SPA and another of the members to be Vice-Chairperson of the SPA.
- (b) The Chairperson is the chief executive officer of the SPA, and has supervision over and direction of the work and staff of the SPA.
- (c) If the Chairperson is absent or unable to act or if the office is vacant, the Vice-Chairperson has all the powers and functions of the Chairperson.
- (d) Both the Chairperson and the Vice-Chairperson shall be qualified and experienced in the petroleum industry disciplines of geosciences, engineering, economics, finance or law.

(8) *Duty of Care.*

Members and staff of the SPA shall perform their duties faithfully, do their work according to law and be impartial and honest. They may not take advantage of their positions to seek illegitimate gains.

(9) *SPA Confidentiality.*

When the SPA and its members and staff perform their lawful functions, they shall be obligated to maintain the confidentiality of commercial secrets of persons and enterprises of which they become aware where the SPA is satisfied that:

- (a) disclosure of the information could reasonably be expected to result in a material loss or gain to a person directly affected by the functions of the SPA, or could reasonably be expected to prejudice the person's competitive position; or
- (b) the information is financial, commercial, scientific or technical information that is confidential information supplied to the SPA and the information has been consistently treated as confidential information by a person directly

affected by the functions of the SPA, and the SPA considers that the person's interest in confidentiality outweighs the public interest in disclosure.

(10) *SPA Office.*

The head office of Somali Petroleum Authority shall be in Mogadishu. It may, subject to subsection (11) establish subsidiary offices in any Regional Member State'

(11) *Regional Offices of SPA.*

The SPA shall keep under review the volume of regulatory work that relates to persons whose Petroleum Operations fall wholly within the boundaries of a particular State of Somalia. Where the SPA finds that the volume of such work justifies the creation of a regional office of the SPA in that State, or that a regional office should be established for more than one State, it shall so advise the Ministry. Applications, Authorisations, decisions, directions or orders which the SPA is required or entitled to handle and that relate to Petroleum Operations that are wholly within the boundaries of a State which the regional office of the SPA has been established to serve shall be handled by that office. In performing its duties, the regional office of the SPA shall observe federal principles, policies, objectives and standards and adhere to national guidelines specified by the SPA.

(12) *Duty of SPA.*

The SPA shall regulate Petroleum Operations according to this Law and other laws of Somalia.

(13) *Functions of SPA.*

The SPA shall perform the following functions:

- (a) to regulate, through the issuance, monitoring, modification and enforcement of Authorisations and the issuance of decisions, orders and directions under this Law and the Regulations, the conduct of Petroleum Operations in accordance with and subject to the provisions of this Law;
- (b) to ensure proper qualification of Authorised Persons, including without limitation, ensuring that Authorised Persons are commercially viable, credit-worthy persons with the technical capability to perform their obligations;
- (c) to implement and ensure compliance by the relevant persons with any Authorisation, rule, decision, order or direction issued by the SPA in accordance with this Law; and
- (d) study and keep under review matters relating to the Petroleum industry which the Ministry requests the SPA to monitor, and report from time to time on such matters and recommend such measures as it considers necessary or advisable in the public interest for the control and development of that industry.

The Government, on the recommendation of the Ministry, may confer on the SPA

such additional functions in relation to the regulation, monitoring and control of Petroleum Operations and, where appropriate, associated matters connected with the functions for the time being of the SPA as are appropriate.

(14) *Powers of SPA*

When performing its functions according to law, the SPA shall have the following powers:

- (a) to grant Reconnaissance Authorisations in accordance with subsection 18(1);
- (b) to grant Production Sharing Agreements in accordance with subsection 19(1);
- (c) to grant Surface Access Authorisations in accordance with subsection 20(1);
- (d) to grant exemptions in accordance with Article 29;
- (e) to modify and revoke any Authorisation in accordance with this Law, the Regulations and the provisions of the Authorisation;
- (f) to make and enforce directions to ensure compliance with Authorisations;
- (g) inquire into, hear and determine any matter where it appears to the SPA that any person has failed to do any act, matter or thing required to be done by this Law, the Regulations or by any Authorisation, decision, order or direction made by the SPA, or that any person has done or is doing any act, matter or thing contrary to or in contravention of this Law, the Regulations or any such Authorisation, decision, order or direction;
- (h) order and require any person to do at any specified time and in any manner prescribed by the SPA, any act, matter or thing that such person is or may be required to do under this Law, the Regulations or any Authorisation or rule, or any decision, order or direction made or given under this Law or the Regulations; and forbid the doing or continuing of any act, matter or thing that is contrary to this Law, the Regulations or any such Authorisation, rule, decision, order or direction;
- (i) in connection with the foregoing, to gather information, including compelling the provision of information from any Authorised Person;
- (j) assess penalties for the breach of any Authorisation, decision, order or direction of the SPA, in accordance with Chapter VIII;
- (k) work cooperatively with foreign regulators, ministries or departments responsible for regulation in adjacent countries regarding cross-border Petroleum Operations or pipelines;
- (l) maintain the Petroleum Registry;
- (m) to make rules in accordance with Subsections 13(17) and 13(18); and
- (n) of its own motion inquire into, hear and determine any other matter or thing that under this Law or the Regulations it may inquire into, hear and determine.

(15) *Investigation.*

It shall be the duty of the SPA to investigate or cause to be investigated whether any relevant requirement or condition of an Authorisation has been or is being contravened.

(16) *Cooperation with SPA.*

When the SPA and its members and staff perform their lawful functions, persons and enterprises under inspection or investigation shall cooperate and provide truthful and relevant documents and materials. Such persons and enterprises may not refuse to cooperate, obstruct inspection or investigation or conceal relevant documents or materials.

(17) *SPA Operational Rules.*

The SPA may, following consultation with the Ministry, make such rules as appears to it requisite or expedient having regard to its duties and functions, including rules requiring or prohibiting certain commercial conduct of Authorised Persons so as to ensure the orderly functioning of the Petroleum industry in Somalia. The SPA may only make such rules after consulting with Authorised Persons and with persons or bodies appearing to it to be representative of persons likely to be affected by the rules. Rules made pursuant to this Subsection 13(17) may not have the effect of amending or materially altering the provisions or conditions of any Authorisation. Amendments and material alterations to Authorisations may only occur pursuant to Article 29.

(18) *SPA Procedural Rules.*

The SPA may make rules respecting the sittings of the SPA, the procedure for making applications, representations and complaints to the SPA and the conduct of hearings before the SPA, and the manner of conducting any business before the SPA, and generally, the carrying on of the work of the SPA, the management of its internal affairs and the duties of its staff. When making these rules, the SPA shall seek to incorporate principles of openness, transparency, accountability and independence.

(19) *Public Documents.*

The SPA shall make available to the public:

- (a) the rules established by the SPA pursuant to Subsections 13(17) and 13(18);
- (b) decisions, orders and directions of the SPA;
- (c) penalties imposed by the SPA;
- (d) the model forms of any Reconnaissance Authorisation, Surface Access Authorisation or Production Sharing Agreement; and
- (e) the Authorisations issued by the SPA.

(20) *Ministry Role re SPA.*

The Ministry may provide general policy guidance to the SPA in connection with the performance of the SPA's functions under this Law and the Regulations. Policy guidance provided by the Ministry shall be published by the Ministry in the same manner as other legislative and policy matters are published. When performing its duties under this Law or the Regulations, the SPA shall take into account the policy

directives issued by the Ministry. The Ministry should not intervene in any specific issue or matter that may be brought before the SPA.

(21) *Appeal.*

Except as provided in this subsection 13(21), every decision, order or direction of the SPA is final and conclusive. An appeal may be made to the SPA from a decision, order or direction of a regional office of the SPA on any question. An appeal may be made to Supreme Court from a decision, order or direction of the SPA on a question of law, or of jurisdiction, or bias on the part of a member of the SPA who participated in the decision, order or direction, or of compliance with the rules of procedural fairness described in subsection 13(22). No appeal lies from a decision of the SPA on any other grounds. An application for appeal must be made within sixty days after the release of the decision, order or direction sought to be appealed.

(22) *Procedural Fairness.*

In performing its functions under this Law or the Regulations, the SPA shall:

- (a) give notice to interested persons of any application received or hearing that the SPA is to conduct in the manner provided in this Law or the Regulations;
- (b) conduct hearings with respect to the issuance, revocation or suspension of Authorisations in those circumstances provided for in this Law or the Regulations;
- (c) give written reasons for its decisions, orders and directions, which reasons shall be given at the time of the decision, order or direction; and
- (d) where a decision, order or direction is made after a hearing, render its decisions based on the evidence, argument and information presented at the hearing.

(23) *Fees, Levies and Charges.*

The SPA, for the purposes of recovering all or a portion of such costs as the SPA determines to be attributable to its responsibilities under this Law or the Regulations, impose reasonable fees, levies or charges on any enterprise that holds an Authorisation issued pursuant to this Law or the Regulations, and provide for the manner of calculating the fees, levies and charges in respect of the person or company and their payment to the Treasury Single Account. The SPA may also specify the rate of interest or the manner of calculating the rate of interest payable by an enterprise on any fee, levy or charge not paid by the person or company on or before the date it is due.

## **Article 14**

### **Establishment and Functions of Somali National Oil Company**

(1) *Formation of SONOC.*

Somali National Oil Company is established as a juridical person in the form of a



corporation having perpetual succession and a common seal. It can sue or be sued in its own name.

- (a) The head office of Somali National Oil Company shall be in Mogadishu. It may after approval of the Minister establish subsidiary offices in any Federal Member State or centre or area inside or outside Somalia according to the needs of establishment to run its business.
- (b) Somali National Oil Company has, in respect of its powers, all the rights, powers, privileges and capacity of a natural person.
- (c) This Law shall apply to the Somali National Oil Company in the same terms as is applicable to any other Authorised Person, with the required adaptations.

(2) *Purpose of SONOC.*

The purpose of the SONOC is to be a commercial enterprise controlled by the Government to conduct Petroleum Operations in Somalia with the aim of maximising the value of petroleum resources to build Somalia's economy and support the national budget as well as to promote economic development. SONOC shall be entitled to exercise the right of participation referred to in subsection 30(1). Somali National Oil Company may acquire an Authorisation by direct acquisition or pursuant to a bid process conducted by the SPA in the same manner as any other Person.

(3) *SONOC Board of Directors.*

Somali National Oil Company shall have a Board of Directors comprised of the Chairperson, the Managing Director and not fewer than three (3) but no more than seven (7), other directors.

- (a) The Chairperson is to be appointed by the Government to hold office during pleasure for a term that the Government considers appropriate.
- (b) The Managing Director is to be appointed by the Government to hold office during good behaviour for a term that the Government considers appropriate and may be removed for cause. The Managing Director is eligible for reappointment on the expiration of his or her term of office.
- (c) The other directors are to be appointed by the Government based on the recommendations of the Minister, for a term of no more than three (3) years so as to ensure, as far as possible, the expiration in any one (1) year of the terms of office of not more than half of the directors. Any other director is eligible for reappointment on the expiration of his or her term.
- (d) Subject to paragraph 14(3)(e), no individual is eligible to be appointed or to continue as Chairperson, Managing Director or a director unless the individual is a Somali citizen.
- (e) When appointing the certain directors, the Ministry need not apply paragraph 14(3)(d) where the Ministry is satisfied that an individual who is non-Somali citizen can assist SONOC owing to his or her experience in the Petroleum industry; provided that the majority of directors (including the Chairperson and the Managing Director) shall be Somali citizens.

(4) *Role of SONOC Board.*

The Board shall direct and manage the business and affairs of Somali National Oil Company.

- (a) The Board may, by resolution, make by-laws to regulate the business and affairs of SONOC.
- (b) The Board may establish an Executive Committee, or any other committee or advisory group that the Board considers advisable, and determine its composition and duties and the tenure of its members.
- (c) The Board may delegate power to, and specify duties and authority of, the Executive Committee to act in all matters that are not by this Law or any by-law or resolution specifically reserved to be done by the Board.
- (d) The Chairperson shall carry out the duties determined by by-law.
- (e) The Managing Director is the chief executive officer of SONOC and has, on behalf of the Board, the direction and management of the business and affairs of SONOC with authority to act in all matters that are not by this Law or any by-law or resolutions specifically reserved to be done by the Board or the Executive Committee. The Government may change the title of the Managing Director to such other title as it determines appropriate, so long as the functions of the holder of that office remain as chief executive officer.
- (f) If the Managing Director is absent or unable to act, or if the office of Managing Director is vacant, the Board may temporarily authorise an officer or employee of Somali National Oil Company to act as Managing Director, but that person may not act as Managing Director for a period of more than ninety (90) days without the approval of the Government.

(5) *SONOC Officers and Employees.*

Somali National Oil Company may employ such officers and employees, and may engage such agents, advisers and consultants, as it considers necessary to carry out the purpose of this Law and for the proper conduct of its business and SONOC may fix the terms and conditions of their employment or engagement.

(6) *Remuneration of SONOC Board.*

The Chairperson and each director, except the Managing Director and any director employed as a Public Officer, are entitled to be paid by Somali National Oil Company the remuneration fixed by the Ministry for their time to attend meetings of the Board or any committee of the Board and to perform their duties under this Law.

(7) *SONOC Directors Expenses.*

Directors are entitled to be paid by Somali National Oil Company reasonable travel and living expenses incurred in connection with the performance of their duties under this Law while absent from their ordinary places of residence.

(8) *Remuneration of SONOC Officers and Employees.*

Officers, employees, agents, advisers and consultants are entitled to be paid by

Somalia National Oil Company the remuneration, allowances and benefits that Somali National Oil Company may determine.

(9) *Exemption from Liability*

- (a) No Member of the Board, officer or employee of SONOC, shall be liable for any act or omission committed in the exercise or performance of his or her functions and duties with the SONOC; provided that such acts or omissions are committed in good faith.
- (b) Each year, SONOC shall prepare and submit for approval a budget, in accordance with the Government budget process, for the following financial year. Such budget shall be subject to the review, revision and approval of the Minister of Finance.

(10) *Audit.*

- (a) The Managing Director shall ensure that, for each financial year the accounts of SONOC are audited by the Auditor-General or such other audit firm approved by the Auditor-General in writing and authorised by the Board.
- (b) The Board shall ensure that within four (4) months from the end of the financial year, or such other period as the Government may require in writing, an audited statement of accounts, , is submitted to the President and the Ministry of Finance.
- (c) The Auditor-General shall have access to all the books of accounts, vouchers and other records, and shall be entitled to any information and explanation required in relation to those and any other records of SONOC.

(11) *Annual and Other Reports*

- (a) In addition to the Financial Audit Report, when required by the Ministry of Finance, SONOC shall also prepare an Annual Report of its activities during that financial year.
- (b) The Annual Report shall, inter alia, include the following information:
  - (i) a copy of the auditor's report;
  - (ii) a statement of financial performance and of cash flows;
  - (iii) the budget for the coming financial year;
  - (iv) a description of the activities of the SONOC during the previous year;
  - (v) an analysis of the extent to which it has met its objectives of the previous year;
  - (vi) an evaluation as to the extent to which the advice and directives of the SONOC have been complied with;
  - (vii) its objectives for the coming year; and,
  - (viii) any recommendations on the matters governed by this Bill.
- (c) SONOC shall publish and disseminate widely the Annual Report, along with its audited accounts. In the event SONOC fails to distribute the Annual Report, it shall be distributed by the Ministry of Finance.
- (d) The Board shall submit to the President and the Federal Parliament such

other reports on its activities or any other matter that may from time to time be required.

## **Article 15**

### **Restrictions to Rights of Public Officers**

(1) *Conflict of Interest Restrictions.*

A Public Officer shall not acquire, attempt to acquire or hold:

- (a) an Authorisation or an interest, whether direct or indirect, in an Authorisation; or
- (b) a share in a corporation (or an affiliate of it) that holds an Authorisation.

(2) *Consequence of Contravention.*

Any instrument that grants or purports to grant, to a Public Officer, an interest, whether direct or indirect, in an Authorisation shall, to the extent of the grant, be void.

(3) *Relations.*

The acquisition or holding of an Authorisation, interest or share by the minor children or spouse of a Public Officer shall be deemed to be an acquisition or holding by the Public Officer.

(4) *Exception.*

This Article 15 does not apply to Public Officers who are directors, officers or employees of or consultants to Somali National Oil Company to the extent that their interest in an Authorisation is held by Somali National Oil Company.

## **Article 16**

### **Graticulation**

For the purposes of this Law, the Territory of Somalia, or parts thereof, shall be divided into blocks according to a grid system which conforms to accepted international standards and norms of graticulation. The SPA shall be the competent authority for deciding upon the graticulation.

## **Article 17**

### **Petroleum Registry**

- (1) The Ministry shall establish and maintain a registry of petroleum agreements, concessions, licences and Authorisations and any change in interests in an existing petroleum agreement, concessions, licenses, Authorisations or sub-contracts. The registry shall be open for public access, and the information registered in the registry is public except as otherwise provided by law.
- (2) Each petroleum agreement and each licence or Authorisation shall be given a separate sheet in the registry. The Ministry shall keep a journal of documents to be registered.

### CHAPTER III--AUTHORISATION OF PETROLEUM OPERATIONS

#### **Article 18**

#### **Reconnaissance Authorisations**

(1) *Power to Grant.*

The Somalia Petroleum Authority may grant a Reconnaissance Authorisation, in respect of a specified area, to a Person or a group of Persons.

(2) *Rights under Reconnaissance Authorisation.*

- (a) A Reconnaissance Authorisation grants a right to perform geological, geophysical, geochemical, geotechnical surveys and any airborne data collection method in the Authorised Area.
- (b) The Reconnaissance Authorisation shall require the Authorised Person to report on the progress and results of such prospecting, and to maintain confidentiality with respect thereto.
- (c) Nothing in a Reconnaissance Authorisation authorises the holder to drill a Well or to have any preference or right to enter into a Production Sharing Agreement.
- (d) All data and information resulting from the activities performed in accordance with the Reconnaissance Authorisation shall be the property of the Government, notwithstanding the rights of the holder of the existing Authorisation, subject to consultation with the SPA to use such data and information in accordance with applicable law.

(3) *Overlapping Authorisations.*

Prior to granting a Reconnaissance Authorisation in respect of an area that is the subject of an existing Authorisation, the SPA shall give written notice to the holder of the existing Authorisation.

(4) *Surrender and Termination.*

- (a) The holder of a Reconnaissance Authorisation may surrender it at any time by written notice to the SPA, provided that the Authorised Person has fulfilled all its obligations thereunder.
- (b) If the holder has not complied with a condition to which the Reconnaissance Authorisation is subject, the SPA may terminate it by written notice to the holder after giving the holder a reasonable opportunity to cure the condition.

(5) *Duration of reconnaissance permit.*

Subject to this Law, a reconnaissance permit, unless otherwise determined by surrender or cancellation, shall remain in force for 2 years from the date of issue unless otherwise stipulated by the SPA. The Reconnaissance Permit may be renewed for a period of 1 year provided that the holder provides ninety (90) days' notice prior to the expiration of the earlier period.

## **Article 19**

### **Production Sharing Agreements**

(1) *Model Production Sharing Agreement*

- (a) The Ministry shall develop or cause to be developed a model Production Sharing Agreement or any other model agreement as may be entered into by the Ministry under this section.
- (b) The model agreement shall guide negotiations of any future agreements under this section.

(2) *Power to Grant.*

The Somalia Petroleum Authority may conclude a Production Sharing Agreement, in respect of a specified area, with a Person or a group of Persons provided that if a group, such group has entered into a joint operating agreement approved by the SPA under subsection 26(1). Each Production Sharing Agreement shall be signed by the Minister, based on a recommendation from the SPA.

(3) *Tendering Procedure and Qualification Requirements.*

- (a) Exploration, development and production of Petroleum shall be carried out in accordance with the terms of the Authorisation, this Law and any other applicable law.
- (b) Authorisations may be entered into following an open, transparent, non-discriminatory and competitive tender process conducted in accordance with applicable law governing public procurement.
- (c) The call for tenders shall define the relevant Contract Area and clearly state the applicable award criteria.
- (d) Authorisations may only be entered into with a company or group of

companies with the requisite technical competence, sufficient experience, history of compliance and ethical conduct and financial capacity to adequately fulfil all obligations of the Authorisations, applicable law and any other requirements stipulated by the Ministry.

- (e) The Government is not obliged to enter into an Authorisation following a tender.

(4) *Incorporation and Organisation Requirement*

- (a) An entity entering into an Authorisation shall be incorporated and registered as a company in Somalia in accordance with the applicable law and shall be capable of managing Petroleum Operations at all times, including through the technical, operational and financial resources of its shareholders.
- (b) An Authorised Person shall maintain an office in the Republic to carry out Petroleum Operations and shall have a representative in charge of the office with full authority to act and to enter into binding commitments on behalf of the Authorised Person. The Authorised Person shall open and maintain an account with a bank in Somalia.
- (c) Specific requirements in respect of the Authorised Person, including its capitalization and management, may be prescribed in the regulations.

(5) *Exclusivity.*

- (a) Without prejudice to Article 20 or the right of the SPA to grant a Reconnaissance Permit, a Production Sharing Agreement grants to the Authorised Person the exclusive right to conduct Petroleum Operations in the Contract Area.
- (b) The Production Sharing Agreement may be limited to Crude Oil, Natural Gas or other constituents of Petroleum.
- (c) The initial Contract Area under a Production Sharing Agreement may not exceed 5,000 km<sup>2</sup> unless authorised by the SPA.

(6) *Notice of Discovery.*

- (a) An Authorised Person shall give written notice to the SPA within twenty-four (24) hours whenever any Petroleum is discovered in its Authorised Area.
- (b) The Authorised Person shall provide such information relating to the discovery requested by the SPA.

(7) *Work Programmes, Plans & Budgets.*

A Production Sharing Agreement shall oblige the Authorised Person to carry on Petroleum Operations only in accordance with work programmes, plans and budgets approved by the SPA.

(8) *Required Provisions of PSA.*

A Production Sharing Agreement shall include provisions addressing the following matters:

- (a) a minimum work obligation to be performed during an exploratory phase of the term of the Production Sharing Agreement;
- (b) relinquishment of portions of the contract area during the exploratory phase;
- (c) financial terms respecting royalties (if any), and the sharing of Petroleum between the Authorised Person and the Government;
- (d) if appropriate, financial features other than royalties and sharing of Petroleum, including signature and production bonuses;
- (e) environmental provisions directed at protecting and preserving the environment in accordance with the law;
- (f) if appropriate, obligations respecting the supply of Petroleum to the Somali domestic market, especially in emergency situations.

## **Article 20**

### **Surface Access Authorisations**

(1) *Power to Grant.*

- (a) The Somalia Petroleum Authority may grant a Surface Access Authorisation, in respect of a specified area, to a Person or a group of Persons.
- (b) The SPA may not grant a Surface Access Authorisation in respect of an area that is the subject of a Production Sharing Agreement or a Reconnaissance Authorisation until it has taken into account any submissions made by the holders of such Authorisations in such a way that there is no undue interference with the rights of that other Authorised Person.

(2) *Rights Granted.*

- (a) A Surface Access Authorisation, while it remains in force, authorises the holder to do one or more of the following:
  - (i) construct, install and operate structures, facilities and installations; and
  - (ii) carry out other works;as specified in the Authorisation in the Authorised Area.
- (b) Nothing in a Surface Access Authorisation authorises the holder to drill a Well.

(3) *Surrender and Termination.*

- (a) A Surface Access Authorisation:
  - (i) may be surrendered by the holder by written notice to the SPA, provided that the Authorised Person has fulfilled all its obligations thereunder; and
  - (ii) may be terminated by the SPA at any time by written notice to the holder, if the holder has not complied with a condition to which the Authorisation is subject after giving the holder a reasonable opportunity to cure the condition.



- (b) The SPA shall provide written notice of the surrender or termination to any Authorised Person in whose Authorised Area operations were authorised to be carried on by the Surface Access Authorisation concerned.

(4) *Determination*

- (a) Where the holder of an Authorisation and the land owner under subsection (1) fail to agree, the matter shall be referred to the SPA for determination.
- (b) account shall be taken of any compensation necessary for the termination of any lawful occupancy in accordance with any other written law for the time being in force; an expert shall determine the matter in relation to values applicable at the time of determination of the matter in the area to which the Authorisation relates for land of a similar nature to the land concerned but without taking into account any enhanced value due to the presence of Petroleum.

(5) *Coordination of Operations.*

The SPA may give a direction to the holders of Surface Access Authorisations and to other Authorised Persons regarding the coordination of their respective Petroleum Operations.

## **Article 21**

### **Invitation to Apply**

(1) *Application for Authorisations.*

The Somalia Petroleum Authority shall invite, wherever possible by public notice, applications for Authorisations, which shall be the preferred method of granting such Authorisations.

(2) *Tendering Procedure and Qualification Requirements*

- (a) Exploration, development and production of Petroleum shall be carried out in accordance with the terms of Authorisations, this Law and any other applicable law.
- (b) Authorisations shall be entered into following an open, transparent, non-discriminatory and competitive tender process conducted in accordance with the applicable law governing public procurement.
- (c) The call for tenders shall define the relevant Contract Area and clearly state the applicable award criteria.
- (d) Authorisations may only be entered into with a company or group of companies with the requisite technical competence, sufficient experience, history of compliance and ethical conduct and financial capacity to adequately fulfil all obligations of the Authorisations, applicable law and any other requirements stipulated by the Ministry
- (e) The Government is not obliged to enter into an Authorisation following a

tender process.

(3) *Direct Negotiations.*

Notwithstanding Subsection (1), the SPA may elect to award Authorisations through direct negotiation without issuing such invitations:

- (a) in the case of Surface Access Authorisations; or
- (b) in the case of all other Authorisations, where it is in the public interest to do so, based on a direction from the Ministry or the Government.

(4) If the SPA grants an Authorisation without inviting applications, it shall provide reasons for its so doing to the Ministry and the Government.

(5) The application shall be submitted in either the English or Somali languages, and shall be submitted in a closed envelope.

(6) *Contents of Invitation.*

- (a) An invitation shall specify the area concerned, the proposed activities, the criteria upon which applications will be assessed, the applicable fees (if any) to be paid with the application, and the time by which, and the manner in which, applications may be made and considered, through the public opening of bids;
- (b) Unless the invitation otherwise states, the SPA may choose not to award an Authorisation to any of the applicants.

(7) *Contents of Application.*

- (a) An application for an Authorisation shall include proposals for:
  - (i) securing the health, safety and welfare of persons involved in or affected by Petroleum Operations;
  - (ii) protecting the environment, preventing, minimising and remedying pollution, and other environmental harm from Petroleum Operations;
  - (iii) training of, and giving preference in employment in the Petroleum Operations to, nationals of Somalia, with the aim of developing the local content component;
  - (iv) commitments to benefit the local community in the Authorised Area and to minimise and mitigate any adverse effects of Petroleum Operations in the Authorised Area; and
  - (v) the acquisition of goods and services from Persons based in Somalia.
- (b) An Authorisation awarded to an applicant obliges it to comply with its proposals as mentioned in paragraph(a).

(8) *Due Consideration of Applications.*

The SPA shall not grant an Authorisation in respect of an area until it has given due

consideration to all applications made in response to, and in compliance with, an invitation.

## **Article 22**

### **Petroleum Operations Generally**

(1) *Third Party Access.*

Every Production Sharing Agreement and Surface Access Authorisation shall require that third party access be granted on reasonable terms and conditions.

(2) The SPA may direct that production facilities owned by an Authorised Person may be used by others if necessary in the interest of efficient operations, provided that the use by others would not unreasonably interfere with that of the Authorised Person or any other person already granted a right of use.

(3) Following a direction by the SPA under subsection (2) of this Section, the Authorised Person and the person seeking access to the facilities shall enter into an agreement for the use of the facilities that shall be submitted to the SPA for approval. The SPA may amend the tariffs and other terms agreed between the parties, or, if no agreement is reached, the SPA may stipulate the terms of the agreement. These amendments and stipulations shall have due regard to prudent resource management while allowing the owner a reasonable profit.

(4) *Joint and Several.*

(a) If there is more than one Authorised Person in respect of a particular Authorisation, the obligations and liabilities of the Authorised Person under an Authorisation are the obligations and liabilities of them all, jointly and severally.

(b) With respect to a Production Sharing Agreement, the Somali National Oil Company and any State-Owned Contractor may be exempted by the SPA of the requirement set out in paragraph (a) above.

(5) *Effect of Violation of Laws.*

An Authorisation is void *ab initio*, if obtained in violation of the laws of Somalia, including laws concerning corruption.

## **Article 23**

### **Environmental Protection**

(1) *Applicability.*

This Section applies in relation to damage caused by pollution from a Facility if the damage occurs in Somalia or affects a Somali vessel or Facility in adjacent areas.

(2) *Environmental Duties.*

Authorised Persons conducting Petroleum Operations are required to:

- (a) minimize ecological damage;
- (b) avoid waste of Petroleum;
- (c) prevent damage or waste of Petroleum-bearing strata;
- (d) prevent pollution and waste to land, air and water;
- (e) prevent the escape of Petroleum into the environment through uncontrolled flows or discharges;
- (f) provide for emergency clean-up operations and procedures;
- (g) in appropriate circumstances, conduct an environmental base line study before commencing Petroleum Operations, and an environmental impact assessment of any major proposed Petroleum Operations; and,
- (h) utilise Best International Practices in the restoration of the environment at the conclusion of Petroleum Operations.

(3) *Liability for Pollution Damage*

- (a) An Authorised Person is liable for pollution damage without regard to fault.
- (b) Authorised Persons are jointly and severally liable for pollution damage. This principle applies correspondingly where there are several holders of an Authorisation.
- (c) An Authorised Person shall create a pollution damage fund for clean-up and rehabilitation of the site in which the pollution damage is found.
- (d) If pollution damage occurs in a petroleum activity and the activity has been conducted without an Authorisation, the party that has conducted the petroleum activity shall be liable for the damage regardless of fault. The same liability rests on others who have taken part in the petroleum activity and who knew, or should have known, that the activity was conducted without an Authorisation.
- (e) If it is demonstrated that an inevitable event of nature, act of war, exercise of public authority or a similar force majeure event has contributed to a considerable degree to the damage or its extent under circumstances which are beyond the control of the liable party, the liability may be reduced to an extent reasonable, with particular consideration to the scope of the petroleum activity.

(4) *Claims for Pollution Damage.*

- (a) If, in the conduct of Petroleum Operations, pollution damage has been caused by a party other than an Authorised Person, the Authorised Person may only claim recourse against the other party in the case of gross negligence or wilful misconduct or if the pollution has resulted from a deliberate attack. The same liability rests on others who have taken part in the Petroleum activity and who knew, or should have known, that the activity was conducted without an Authorisation.
- (b) The Authorised Person shall without undue delay, by public notice in the

Official Gazette and by any other appropriate means, including electronic and print media, provide contact information regarding the party to whom claims for compensation for pollution damage shall be directed.

- (c) Legal action for compensation for pollution damage shall be brought before the competent court where the pollution has taken place or where pollution damage has been caused.

## **Article 24**

### **Restitution and Reparation**

- (1) *Requirement for Authorisation.*

No person shall conduct Petroleum Operations in the Territory of Somalia except pursuant to an Authorisation issued pursuant to this Law or the Regulations.

- (2) *Restitution.*

Without prejudice to any criminal liability of that Person, a Person who engages in Petroleum Operations other than pursuant to an Authorisation shall:

- (a) make restitution to Somalia of an amount equal to the market value of Petroleum developed, produced or exported, together with late payment interest thereon at a rate not to exceed the legal rate of interest to be determined by the Ministry;
- (b) either forfeit all infrastructure and equipment used in engaging in those Petroleum Operations, or remove such infrastructure and equipment or be liable for the payment of the costs of such removal; and,
- (c) clean up pollution resulting from those Petroleum Operations, or reimburse the costs of clean-up to Somalia.

- (3) *Quantum.*

The liabilities under subsection (1) shall apply cumulatively, or not, as is determined to be appropriate by the SPA, with a view to place Somalia in the position in which it would have been were it not for the Petroleum Operations engaged in other than pursuant to an Authorisation.

- (4) *Joint and Several Liability.*

The liabilities under subsection (1) of Persons who, together, are engaged in, or have engaged in, Petroleum Operations are the liabilities of them all, jointly and severally.

## **Article 25**

### **Restrictions on Exercise of Rights**

- (1) *Fair Compensation to Surface Owners.*

- (a) An Authorised Person shall not exercise any of the rights granted under an Authorisation or under this Law:
  - (i) on any public immovable property without the consent of the SPA;
  - (ii) on any private immovable property of the Government without the consent of the SPA; or
  - (iii) on any private immovable property without payment of fair and reasonable compensation to the owner, as may be determined by the SPA.
- (b) The owner of any immovable property in an Authorised Area retains rights to the use of its land except in so far as the use interferes with Petroleum Operations.
- (c) A land owner or a lawful occupier of any land in an Authorised Area shall retain the right to graze stock upon or to cultivate the surface of the land insofar as the grazing or cultivation does not interfere with Petroleum Operations or safety zones in the area.
- (d) An Authorisation may limit or otherwise control the use by an Authorised Person of public infrastructure, and the consumption of other natural resources, including trees, sand, gravel, rock, water, animals, birds and fish.
- (e) An Authorisation does not constitute a waiver of the obligation to seek the written consent of responsible authorities, except as may be specifically described in the Authorisation.

(2) *No Interference with Lawful Offshore Activities.*

An Authorised Person shall not exercise any of the rights under an Authorisation or under this Law or the Regulations in a way that interferes with fishing, navigation or any other lawful offshore operation without the written consent of the responsible authority.

(3) *Compensation for Disturbance.*

- (a) The Authorised Person is liable to pay fair and reasonable compensation as determined by the SPA if, in the course of Petroleum Operations, it:
  - (i) disturbs the rights of the owner of any immovable property, or causes any damage thereon; or
  - (ii) demonstrably interferes with fishing, navigation or any other lawful offshore activities.
- (b) Where the value of any rights have been enhanced by the Petroleum Operations, compensation payable in respect of such rights shall not exceed any amount which would be payable if the value had not been so enhanced.

(4) *Fair and Reasonable Compensation.*

- (a) What constitutes fair and reasonable compensation under this Article 30 shall be decided by the SPA, after having considered representations by interested parties.
- (b) If the Authorised Person fails to pay compensation when demanded under subsection (2), or if the owner or occupier is dissatisfied with the amount of

compensation offered to him, the owner or occupier may, within thirty (30) days of the date on which the demand or offer is made, take proceedings before the competent local court for the determination and recovery of compensation (if any) properly payable under this section.

## **Article 26**

### **Approvals by SPA**

(1) *Approval of Agreements.*

A joint operating agreement, lifting arrangement and any agreement related to the Petroleum Operations, as well as any change to such agreements, shall be subject to prior approval by the SPA. The SPA shall approve any such agreements or amendments where they are consistent with the Authorisations, the Law and the Regulations.

(2) *Approval of Change in Control.*

- (a) All changes in Control of an Authorised Person shall be subject to prior approval by the SPA.
- (b) Where a change in Control occurs without the prior approval of the SPA, the SPA may terminate the applicable Authorisation.
- (c) For the purposes of paragraph 2(b), change in Control includes a Person ceasing to be in Control (whether or not another Person becomes in Control), and a Person obtaining Control (whether or not another Person was in Control).

(3) *Approval of Transfers.*

Except with the prior written consent of the SPA (which consent may not be unreasonably withheld or delayed), or as explicitly provided in the terms of the Authorisation, no assignment, transfer, conveyance, novation, merger, encumbrance or other similar dealing in respect of an Authorisation shall be of any force or effect. The Regulations shall describe the criteria by which the SPA shall assess the suitability of its consent.

(4) *Application for Transfer.*

An application for approval of transfer under this Article shall be made to the SPA and shall be accompanied with:

- (a) an undertaking that the transferee is capable of discharging obligations of the transferor;
- (b) certificate of incorporation or compliance by the transferee;
- (c) transfer agreements between transferee and transferor;
- (d) certificate of tax clearance from the Ministry of Finance;
- (e) an integrity pledge by the transferee;
- (f) particulars of technical and industrial qualifications of the transferee and of

- his employees;
- (g) particulars of the kinds of financial resources available to the transferee, including capital, credit facilities and guarantees so available;
- (h) particulars of technical and industrial resources available to the applicant;
- (i) proposals with respect to the training and employment of Somalis; and
- (j) any other matter as the SPA may consider necessary.

(5) *Approval of Transfers.*

- (a) Except with the prior written consent of the SPA (which consent may not be unreasonably withheld or delayed), or as explicitly provided in the terms of the Authorisation, no assignment, transfer, conveyance, novation, merger, encumbrance or other similar dealing in respect of an Authorisation shall be of any force or effect. The Regulations shall describe the criteria by which the SPA shall assess the suitability of its consent.
- (b) Subject to subsection (6), on application duly made under subsection (4), the SPA may grant or refuse to grant approval subject to any condition as the SPA considers necessary to impose.

(6) *Continuity of Operations.*

A transferor of an interest in a Authorisation shall ensure continuity of the Petroleum Operations under the Authorisation until such operations are taken over by transferee.

(7) *Annual Financial Statements*

Any Person who engages in Petroleum Operations shall submit to the SPA on an annual basis, its audited financial statements as well as the consolidated financial statements of its parent corporation and those of its investors.

## **Article 27**

### **Unitisation Contract**

(1) *Unitisation.*

- (a) If and when a Reservoir is discovered to lie partly within a Contract Area, and partly in another Contract Area:
  - (i) the SPA may require by written notice the Authorised Persons to enter into a unitisation agreement with each other for the purpose of securing the more effective and optimised production of Petroleum from the Reservoir; and
  - (ii) if no agreement has been reached within a period of eighteen (18) months from receipt of written notice as required in subparagraph (i) herein, the SPA shall decide on the unitisation agreement.



- (b) If and when a Reservoir is discovered to lie partly within a Contract Area and partly in an area that is not the subject of a Production Sharing Agreement:
  - (i) the SPA may require by written notice the Authorised Person to enter into a unitisation agreement with the SPA for the purpose of securing the more effective and optimised production of Petroleum from the Reservoir; and
  - (ii) if no agreement has been reached within a period of eighteen (18) months from receipt of written notice as required in subparagraph (i) herein, the SPA shall decide on the unitisation agreement, unless otherwise provided in the Production Sharing Agreement.

(2) *Unitisation Agreement.*

Without limiting the matters to be dealt with, the unitisation agreement shall define the amount of Petroleum in each area covered by the unitisation agreement, and shall appoint the Operator responsible for production of the Petroleum covered by the unitisation agreement.

(3) *Requirement of Approval.*

The SPA may approve the continued development or production of a Reservoir partly within a Contract Area under subsection (2) only after it has approved or decided the unitisation agreement.

(4) *Approval of Changes.*

Any changes to the unitisation agreement shall be subject to prior approval by the SPA.

## **Article 28**

### **Resolution of Disputes**

(1) *SPA Role in Disputes.*

- (a) The SPA may inquire and decide all disputes between a person engaged in exploration or development operations, either among themselves or in relation to themselves and third parties other than the Government not so engaged, in connection with:
  - (i) the boundaries of any exploration area or development area;
  - (ii) any act committed or omitted, or alleged to have been committed or omitted, in the course of, or ancillary to, exploration or development operations;
  - (iii) the assessment and payment of compensation pursuant to this Law; or
  - (iv) any other matters in relation to exploration and development operations.
- (b) The SPA may refuse to decide any dispute referred to it and, if it does so, it shall notify the parties to the dispute in writing.

- (c) The SPA may, taking into account all relevant circumstances, give any direction which may be necessary for the purpose of giving effect to its decision in proceedings pursuant to this Article 28, including ordering the payment, by any party to a dispute, to any other party to the dispute of such compensation as may be fair and reasonable.
- (d) The SPA may, refuse to decide any dispute referred to under this Part and, if it does so, shall notify the parties to the dispute in writing accordingly.
- (e) The SPA may make any decree or order which may be necessary for the purpose of giving effect to its decision in proceedings pursuant to this Part, and may order the payment, by any party to a dispute, of such compensation as may be reasonable, to any other party to the dispute.
- (f) No appeal lies to a court against a refusal of the SPA to determine matters.

(2) *Disputes re Authorisations.*

- (a) If a dispute arises relating to the interpretation and/or application of the terms of an Authorisation between an Authorised Person and the SPA, the parties shall attempt to resolve that dispute by means of negotiation.
- (b) If the dispute cannot be resolved amicably by negotiation, either Party may submit the dispute to international arbitration under recognized rules, in a neutral venue, or to the Supreme Court, at the election of the submitting Party.

(3) *Enforcement*

- (a) The SPA may send a copy, certified under its hand, of any decree or order made by SPA to any court within the local limits of whose jurisdiction the subject-matter of the decree or order is situated, and, subject to any appeal, the civil court shall enforce the decree or order of SPA in the same manner in which it enforce its own decrees or orders.
- (b) The fees payable upon the enforcement of a decree or order are those which are payable upon the enforcement of a like decree or order made by the court concerned.

(4) *Rules of Procedure*

The SPA may make rules with respect to initiation and conduct of proceedings under this section and keeping of records and notes of evidence concerning any such proceedings.

## **Article 29**

### **Exemption from or Variation of Conditions**

The SPA may exempt an Authorised Person from complying with the conditions of its Authorisation, and may also agree to vary or suspend those conditions, either with or without conditions and either temporarily or permanently, provided that the SPA shall provide written reasons for its doing so to the Ministry. This Article 29 does not include the power to waive or suspend an obligation to pay any amount due under an Authorisation.

## CHAPTER IV--SOMALI PARTICIPATION

### Article 30

#### **Somali National Oil Company and State Participation in Petroleum Operations**

(1) *SONOC and State Participation.*

Each Production Sharing Agreement shall stipulate:

- (a) the right of SONOC to participate in Petroleum Operations, up to a maximum participation right of 20%; and,
- (b) the right of a State-Owned Contractor in which the Authorized Area is located to participate in Petroleum Operations, up to a maximum participation right of 10%.

(2) *Decision to Participate.*

The decision by Somalia National Oil Corporation to participate in Petroleum Operations under a particular Production Sharing Agreement shall be made by the Minister, if a recommendation to participate has been made by Somali National Oil Company. The decision by a State-Owned Contractor in which the Authorized Area is located to participate in Petroleum Operations shall be made by the government of the Federal Member State in which the Authorized Area is located.

(3) *Timing of Decision.*

The participation rights under subsection (1) may occur during any phase of Petroleum Operations in accordance with the terms and conditions established in the Reconnaissance Permit of the Production Sharing Agreement.

### Article 31

#### **Pre-emption**

- (1) Where an Authorised Person decides to dispose of all or part of its interest under an Authorisation, SONOC shall have the right of first option to acquire the interest on the same terms as agreed to with the potential buyer.
- (2) If the agreed consideration is not a monetary value, SONOC shall have the right to pay the corresponding monetary value of the agreed consideration.

- (3) SONOC's right of pre-emption shall lapse unless exercised within sixty (60) days after receiving notice of the acquisition.

## CHAPTER V--CONDUCT OF PETROLEUM OPERATIONS

### Article 32

#### Work Practices

- (1) *Best International Practices.*

Petroleum Operations shall be conducted in accordance with Best International Practices, that is, in accordance with such practices and procedure employed in the petroleum industry worldwide by prudent and diligent operators under conditions and circumstances similar to those experienced in connection with the relevant aspect or aspects of the Petroleum Operations, principally aimed at guaranteeing:

- (a) conservation of Petroleum resources, which implies the utilization of adequate methods and processes to maximize the recovery of hydrocarbons in a technically and economically sustainable manner, with a corresponding control of reserves decline, using principles of maximum efficient production rates and other conservation principles, and to minimize losses at the surface;
- (b) operational safety, which entails the use of methods and processes that promote occupational security and the prevention of accidents;
- (c) environmental protection, that calls for the adoption of methods and processes which minimize the impact of Petroleum Operations on the environment.

- (2) *Conservation.*

Production of Petroleum shall take place:

- (a) in such a manner that as much as possible of the Petroleum in place in each individual Petroleum deposit, or in several deposits in combination, will be produced;
- (b) in accordance with Best International Practice and sound economic principles; and
- (c) in such a manner that waste of Petroleum or Reservoir energy is avoided.

- (3) *Continuous Evaluation.*

Authorised Persons shall carry out continuous evaluation of production strategy and technical solutions, shall take the necessary measures in order to achieve this, and shall inform the SPA of any relevant changes, in accordance with Best International Practice.

### Article 33

## **Decommissioning**

### **(1) *Decommissioning Plan***

- (a) An Authorised Person who owns or operates a Petroleum Facility shall submit a decommissioning plan for the facilities, including Wells, to the SPA before the applicable Authorisation or expires or is terminated or before use of the Facility ceases permanently.
- (b) The decommissioning plan shall contain a detailed proposal for at least one of the following alternatives:
  - (i) further use of the Facilities for Petroleum Operations;
  - (ii) shutdown of the Petroleum Operations and continued use of the facilities for other activities; or
  - (iii) shutdown of the Petroleum Operations and removal of the facilities.
- (c) The decommissioning plan may include different proposals for different parts of the Facility or for different facilities comprised by the plan.
- (d) The decommissioning plan shall contain the information and evaluations necessary for the Ministry to make a decision relating to cessation, including information on costs and finances, management system, cessation alternatives and an environmental and social impact assessment of the alternatives, carried out and approved pursuant to this Law.
- (e) A plan for shutdown of Petroleum Operations pursuant to paragraph (1)(b)(ii) or (iii) of this Section shall contain a detailed proposal for the restoration of lands and waste management, including the removal of causes of damage or danger to the environment and communities.
- (f) Unless the Ministry determines otherwise, the decommissioning plan shall be submitted at the same time as the Development Plan.
- (g) The Ministry shall be notified immediately if the use of a Facility is expected to cease before the expiry of an Authorisation. A decommissioning plan shall be prepared and submitted as soon as practicably possible and the Ministry may set a time limit for submitting the plan. The same shall apply if an Authorisation is terminated earlier than its expiration date.
- (h) The Ministry shall give notice of the decommissioning plan in the Official Gazette and by any other appropriate means to ensure that interested persons are informed and allowed a period of time of not less than ninety days from the date of publication to present their views.

### **(2) *Cessation Decision.***

- (a) The Ministry shall issue a cessation decision for the facilities comprised by the decommissioning plan, and shall set a time limit for the implementation of the decision.
- (b) The Ministry shall consult other relevant Ministries and institutions prior to the adoption of a cessation decision. Interested persons and any other person likely to be affected by the cessation shall be given the opportunity to present their views to the Ministry prior to the adoption of a cessation decision.
- (c) In adopting the decision, the Ministry shall consider all interests involved, including the actual and potential impact of the decision on local

communities, agriculture and other affected interests and the environmental, safety, technical and economic consequences of the cessation alternatives.

- (d) The Ministry may stipulate specific conditions respecting the cessation decision.
- (e) The Authorised Person shall ensure that the cessation decision is implemented in accordance with its terms and conditions and shall submit a report to the Ministry on the work carried out.
- (f) If a cessation decision provides for the further use of the facilities for Petroleum Operations, the Authorised Person shall be required to submit a new decommissioning plan before the use of the facilities ceases and comply with the provisions of this chapter.
- (g) The cessation decision and any obligations imposed on the Authorised Person by the cessation decision shall survive the expiration or termination of the applicable Authorisation.

(3) *Decommissioning Fund*

The Authorised Person shall establish a decommissioning fund immediately after the approval of a plan for development and operation or the granting of an Authorisation for transportation systems, as prescribed in the regulations. The decommissioning fund shall be sufficient to cover the full costs of decommissioning.

(4) *Plugging and Abandonment of Wells.*

- (a) The Authorised Person shall submit to the Ministry immediate notice of any decision to abandon a Well.
- (b) The abandonment or plugging of a Well shall only be carried out with the prior written consent of the Ministry and in the manner approved by the Ministry.
- (c) The Authorised Person shall conduct surveys of plugged and abandoned Wells as prescribed in the regulations.

(5) *Restoration of Affected Lands.*

After the termination of Petroleum Operations in an area, the licensee or the Authorised Person who operates Petroleum Facilities affecting the area shall restore the affected areas and remove the causes of damage or danger to the environment and the neighbouring communities.

(6) *Assignment and Responsibility for Decommissioning.*

- (a) If the Authorised Person assigns or transfers its share of a participating interest in an Authorisation in whole or in part, the assignor and the assignee are jointly liable for financial obligations and the cost of carrying out the cessation decision.
- (b) The financial obligation of the assignor shall be limited to costs related to the Facilities, including Wells that existed at the time of the assignment, calculated on the basis of the size of the participating interest assigned.

(7) *Failure to Carry Out Decommissioning.*

If a decommissioning plan is not submitted or a cessation decision is not implemented within the stipulated time limit and in accordance with the terms and conditions of the decision stipulated pursuant to subsection 33(2) of this Law, the Ministry may take the necessary remedial measures for and on behalf of the Authorised Person responsible for cessation, including the engagement of subcontractors for the carrying out of the cessation decision at the expense and risk of the Authorised Person. The Minister may use the decommissioning fund for this purpose. The Minister shall give notice within a reasonable period of time of his intent to take the measures referred to in this Section and shall grant a reasonable period of time to the Authorised Person to undertake its own remedial measures.

(8) *Liability.*

An Authorised Person who is under an obligation to implement a cessation decision is subject to strict liability to the Government for any loss or damage, howsoever caused, in connection with decommissioning of the Facility or other implementation of the decision.

## CHAPTER VI--INFORMATION AND INVESTIGATION

### **Article 34**

#### **Data and Information**

(1) *Title to Data and Information.*

Somalia shall have title to all data and information, whether raw, derived, processed, interpreted or analysed, obtained pursuant to any Authorisation. Appropriate obligations of confidentiality shall apply, as contemplated by subsections 12(2) and 13(9).

(2) *Export of Data.*

Data and information acquired during the course of Petroleum Operations may be freely exported by Authorised Persons provided that the SPA may require that an original, or in the case of a core, rock, fluid or other physical sample, a usable portion of the original, of all data and information, both physical and electronic, be kept in the Territory of Somalia.

### **Article 35**

#### **Audit and Inspection**

(1) *Inspector.*

- (a) The SPA may appoint a person to be an inspector for the purposes of this Law (an "Inspector").
- (b) The Inspector shall have the powers and rights provided to him or her in the Regulations.

(2) *Role of the SPA.*

The SPA shall exercise and perform its functions and powers in a manner that:

- (a) promote efficiency, economy and safety on the part of an Authorised Person and sub-contractors on the safe conduct of Petroleum Operations;
- (b) ensure Authorised Persons carry out Petroleum Operations in accordance with the contractual agreement, and Best International Practice;
- (c) promote competition in Petroleum Operations;
- (d) ensure transparency in relation to activities of the Petroleum sector; and
- (e) ensure fairness and balance of interests of the Government and other participants in the industry.

(3) *Audit.*

For the purposes of subsection (2), the SPA shall conduct an audit of:

- (a) all matters relating to assessment and collection of oil and gas revenues; and
- (b) costs on exploration, production, development and sale of oil and gas.

(4) *Access to Books and Accounts.*

- (a) On request, an Authorised Person shall make its books and accounts available to the SPA for auditing.
- (b) The Inspector has the right at reasonable times to:
  - (i) enter any area, structure, platform, vehicles, installation, vessel, aircraft, facilities, offices or buildings used by a licensee, Authorised Person or sub-contractor in connection with Petroleum Operations;
  - (ii) inspect, test and audit, as appropriate, the works, equipment, operations and financial books of account, records and registers of an Authorised Person or sub-contractor related to or used in Petroleum Operations;
  - (iii) take and remove Petroleum, water or other substance for the purposes of analysis or testing the sample;
  - (iv) inspect, take extracts from, and make copies of any document relating to the Petroleum Operations; and
  - (v) make such examinations and inquiries that are necessary to ensure that the provisions of this Law, the regulations, the Authorisation are being complied with.
- (c) A licensee, Authorised Person or subcontractor shall provide the Inspector with reasonable facilities and assistance to enable the effective and timely performance of the supervisory and inspection functions under this Article.



## **Article 36**

### **Termination of Authorisations**

(1) *Termination.*

- (a) Termination of an Authorisation for any reason is without prejudice to rights and obligations expressed in this Law, the Regulations or the Authorisation to survive termination, or to rights and obligations accrued thereunder prior to termination, and all provisions of an Authorisation reasonably necessary for the full enjoyment and enforcement of those rights and obligations survive termination for the period so necessary.
- (b) The SPA shall have the power to terminate an Authorisation as set out in the Authorisation.

(2) *Multiple Authorised Persons.*

- (a) If there is more than one Authorised Person in respect of a particular Authorisation and circumstances arise in which the SPA may terminate an Authorisation, the SPA may elect to terminate an Authorisation only in respect of those Authorised Persons whose acts or omissions (or in relation to whom acts, omissions or events have occurred which) have led to such circumstances, and shall so notify the remaining Authorised Persons.
- (b) Should the SPA terminate an authorisation under subsection 36(1), it shall give the remaining Authorised Persons right of preference in the acquisition of the terminated share, in proportion to their respective shares. Any share not acquired by the remaining Authorised Persons shall revert to Somalia.

## **Article 37**

### **Indemnification of the Government and Ministry and SPA**

(1) *Indemnification.*

An Authorised Person shall:

- (a) defend, indemnify and hold harmless the Government, Ministry and the SPA from all claims by third parties resulting, directly or indirectly, from Petroleum Operations, and pay all compensations relating to any civil liability claims, pretensions or demands; and
- (b) unless the Ministry is satisfied, after consultation with the Authorised Person, that the potential liability under paragraph 37(1)(a) can be covered by other means, including the posting of corporate or bank guarantees or standby

letters of credit, maintain insurance in respect thereof on a strict liability basis for such amount as the Ministry requires from time to time.

## CHAPTER VII--PUBLIC INFORMATION

### Article 38

#### Publication by SPA

(1) *Publication.*

The SPA shall publish, in the Official Gazette:

- (a) notice of the grant of Authorisations, and a summary of the terms of such Authorisations;
- (b) invitations for applications for Authorisations under subsection 21(1); and,
- (c) notice of termination of Authorisations.

(2) *Publishing Invitations.*

The SPA shall publish invitations for applications for Authorisations under subsection 21(1); in the media, in such manner as is required by the Regulations.

### Article 39

#### Public Information

(1) *Public Access*

- (a) The SPA shall make available to the public:
  - (i) summaries of key terms of all Authorisations and amendments thereto, whether or not terminated;
  - (ii) details of exemptions from, or variations or suspensions of, the conditions of an Authorisation under Article 29; and
  - (iii) copies of all unitisation agreements.
  - (iv) copies of environmental and social impact assessments.
- (b) The SPA shall make available to the public, within a reasonable period of time of a request having been made therefor, summary details of:
  - (i) an approved Development Plan; and
  - (ii) all assignments and other dealings consented to in respect of Authorisations, subject to commercial confidence as to the commercial terms.

(2) *Publication of Reasons.*

Within thirty (30) business days of a request having been made, the SPA shall publish brief reasons for:

- (a) granting an Authorisation subsequent to an invitation, as contemplated at subsection 22(1);
- (b) granting an Authorisation without inviting applications, as contemplated at subsection 22(12);
- (c) approving a Development Plan under a Production Sharing Agreement;
- (d) granting an exemption from, or agreeing to a variation or suspension of, the conditions of an Authorisation under Article 29; and
- (e) making any decision or granting any approval that, under an Authorisation, requires publication.

(3) *Compliance Reports.*

- (a) Authorised Persons shall report on their compliance with requirements under the Law and Authorisations in such manner and detail as required by their Authorisation and as provided by the Regulations.
- (b) The SPA shall make available such reports to the public, except for any portions of such reports which the Authorised Person requests be maintained confidential, and which the SPA reasonably considers to be commercially confidential.

(4) *Fees for Access.*

The information contemplated in this Article 39 shall be available to any Person on payment of the fee therefor, to be provided by the Regulation.

(5) *Language.*

The information contemplated in Section shall be available in either the English or Somali languages.

## **Article 40**

### **Disclosure and Publication of Payments**

(1) *Transparency Principles.*

- (a) Authorised Persons and sub-contractors shall annually disclose information on all payments and deemed payments made to the Government and Government agencies, monetary or in kind in connection with Petroleum Operations, in accordance with applicable law;
- (b) All disclosures under this Section shall be reported to an independent administrative body and shall be published and verified in accordance with the principles of the Extractive Industries Transparency Initiative as prescribed in the regulations;

- (c) All material payments and revenues are the subject of a credible, independent audit, applying international auditing standards;
- (d) All material payments and revenues are to be reconciled by a credible, independent administrator appointed by the Government, applying international auditing standards and with publication of the administrator's opinion regarding that reconciliation including discrepancies, should any be identified;
- (e) Confidentiality clauses or other clauses in an Authorisation that prevent disclosure of information on any payments made and revenues received in connection with Petroleum Operations conducted in the Territory of Somalia shall be void to the extent required for disclosure of such information as set out in subsection (1) herein;
- (f) The Ministry may issue regulations respecting all matters relating to disclosure and publication of information under this Article, including orders to administrative agencies requiring them to provide information relating to payments and revenues.
- (g) These principles shall apply to Somali National Oil Company and any other State-Owned Contractor.

## CHAPTER VIII--REGULATIONS AND DIRECTIONS

### Article 41

#### Regulations

(1) *Power to Make Regulations.*

The Ministry, based on advice and recommendations from the SPA, may make Regulations under this Law relating to the following:

- (a) graticulation of the Territory of Somalia;
- (b) the exploration for and the development and production of Petroleum;
- (c) the use and disclosure of data, information, records and reports;
- (d) the measurement and sale or disposal of Petroleum, including calibration, testing and compensation in cases of mismeasurement;
- (e) all matters relating to safety, environmental and waste management and prevention, specific to the petroleum industry, including the establishment of safety zones and any other measures to enforce safety zones, emergency preparedness and related emergency measures and the form, content and other requirements relating to environmental and social impact assessments;
- (f) resource management;
- (g) structures, facilities and installations;
- (h) the clean-up or other remedying of the effects of the escape of Petroleum;
- (i) abandonment and Decommissioning including the establishment of and criteria relating to a decommissioning fund;
- (j) work programmes and budgets;

- (k) the acquisition of rights to land or surface for the conducting of Petroleum Operations, including the requirements for consultation and notification and the control of tariffs charged for third party access
- (l) the auditing of an Authorised Person and of its accounts and records;
- (m) records, reports and information, including requirements as to their content, submission and retention including in relation to:
  - (i) the training and employment of Somali nationals,
  - (ii) procurement of Somali goods and services;
- (n) fees to be paid, including by applicants for Authorisations, Authorised Persons, and Persons wishing to inspect the petroleum registry, including the amount or manner of calculation of fees that may be levied;
- (o) incorporation and organizational requirements of an Authorised Person, including requirements respecting the Authorised Person capitalization and management and participation of SONOC;
- (p) licences to install and operate transportation systems ;
- (q) third party access to facilities for the transportation, treatment and storage of Petroleum, including the terms upon which the access is granted;
- (r) management system requirements including training and qualification, competency and nationality requirements regarding the board of directors, management, employees and subcontractors of persons engaged in providing goods and services and training of Public Officers by these persons and exemptions from these requirements;
- (s) public disclosure and verification of any records, reports or information submitted to the Ministry and the SPA, including the form, content and timing of the disclosure and requirements by administrative agencies to provide information relating to payments and revenues;
- (t) surface rental fees and other fees, bonuses and royalties, including prescribing the amounts or criteria for their calculation, their collection and the classification of persons subject to such fees, bonuses and royalties;
- (u) local content; and,
- (v) any other matter that the Ministry deems necessary or appropriate to give effect to the provisions of this Law.

(2) *Regulatory Principles.*

When making regulations, the Government shall utilize accepted international standards to the greatest extent possible.

(3) *Publication of Regulations.*

The Ministry shall publish Regulations in the Official Gazette.

## **Article 42**

### **Directions**

In addition to its power to give directions under subsection 20(4) and paragraph 28(1)(c), the SPA may give a direction to an Authorised Person:

- (a) relating to any matter set out in subsection 41(1); or
- (b) otherwise requiring compliance with this Law, the Regulations or its Authorisation.

## CHAPTER IX--OFFENCE AND PENALTY PROVISIONS

### Article 43

#### Territorial and Material Scope of this Chapter

The provisions of this Chapter are without prejudice to criminal and civil liability under the general law.

### Article 44

#### Offences

(1) *Offences.*

A person is guilty of an offence who:

- (a) knowingly makes any false entry or statement in any report, record or document required by this Law or the regulations or by any order, directive or stipulation made by the Ministry or the SPA pursuant to this Law or the regulations;
- (b) knowingly destroys, mutilates or falsifies any report or other document required by this Law or the regulations or by any order, directive or stipulation made by the Ministry pursuant to this Law or the regulations;
- (c) whoever, by conduct that contravenes the provisions of this Law or the regulations, endangers the life or physical integrity of a person, endangers property of high value, or gravely endangers the environment; or
- (d) places or deposits, or is accessory to the placing or depositing of, any Petroleum or substance in any place with the intention of misleading any other person as to the possibility of a Reservoir existing in that place.

(2) *Contravention of Act.*

Every person is guilty of an offence who:

- (a) contravenes this Law, the regulations, the Authorisation or any other authorisation issued pursuant to this Law or the regulations or any order, directive or stipulation of the Ministry of the SPA; or
- (b) undertakes or carries on Petroleum Operations without an Authorisation or any other authorisation issue pursuant to this Law or without complying with the terms or conditions of the Authorisation.

(3) *Obstruction of Public Officer.*

Any person commits an offence who:

- (a) without reasonable excuse, obstructs, molests or hinders a Public Officer in the exercise of his or her powers under this Law; or
- (b) knowingly or recklessly makes a statement or produces a document that is false or misleading in a material particular to a Public Officer engaged in carrying out his or her duties and functions under this Law.

(4) *Obstruction of Authorised Person.*

Any person who, without reasonable excuse, obstructs, molests, hinders or prevents an Authorised Person in or from the doing of any act that the Authorised Person is authorised to do by this Law or the regulations, or any Authorisation issued pursuant to this Law or any order, directive or stipulation made by the Ministry or SPA pursuant to this Law or the regulations commits an offence.

(5) *Public Officer.*

A Public Officer engaged in the implementation of this Law shall not, in his or her private capacity, directly or indirectly, acquire, attempt to acquire or hold:

- (a) an interest in an Authorisation or any other authorisation issued pursuant to this Law or the regulations;
- (b) a direct or indirect economic interest, participation interest or share in an entity that is entitled under this Law to carry on Petroleum Operations in the Territory of Somalia; or
- (c) a direct or indirect economic interest, participation interest or share in a body corporate that is providing goods or services to an Authorised Person under this Law.

(6) *Public Service Offence.*

A person who contravenes subsection (5) of this Article commits an offence.

(7) *Defences.*

In proceedings for a prosecution for an offence under this Article of acquiring or maintaining an interest of a kind referred to in subsection (5) of this Article, it shall be a sufficient defence if the person charged proves that:

- (a) the interest was acquired by operation of law; and
- (b) all reasonable steps necessary to dispose of the interest have been and are continuing to be taken.

(8) *Offence by corporation.*

Where an offence which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he or she, as well as the body corporate, commits that offence and is liable to be prosecuted and punished accordingly.

(9) *Additional orders.*

Where a person is convicted of an offence under this Law, the court may in addition to another penalty imposed under this Law or any other law, make:

- (a) an order for the forfeiture of any funds, money instruments, documents, facilities, vehicles, crafts, vessels or equipment used in the commission of the offence; and
- (b) an order:
  - (i) for the forfeiture of petroleum obtained or recovered in the course of the commission of the offence;
  - (ii) for the payment by that person to the Government of an amount equal to the proceeds received of the sale of petroleum so obtained or recovered; or
  - (iii) for the payment by that person to the Government of the value at the wellhead, assessed by the court in respect of the quantity recovered or for the payment of such a part of that amount as the court, having regard to all the circumstances, thinks fit.

(10) *Nonenforcement.*

If the court is satisfied that an order made under subparagraph (9)(b)(i) of this Article cannot for any reason be enforced, the court may, upon the application of the person by whom the proceedings were brought, set aside the order and make an order referred to in subparagraphs (9)(b)(ii) or (iii) of this Article.

(11) *Additional Orders.*

If a person is guilty of an offence under this Law, the court may, in addition to any other punishment it may impose,

- (a) order that person to comply with the provisions of this Law, the regulations, any order, directive or stipulation of the Ministry or SPA and the terms or conditions of the Authorisation issued pursuant to this Law for the contravention of which he has been convicted;
- (b) order the temporary deprivation of the right to participate in public tenders concerning Petroleum Operations, in particular those regarding Authorisations and the procurement of goods and services;
- (c) order the termination of any Authorisations awarded to the person.



(12) *Penalty for individuals.*

If an individual is guilty of an offence under this Law, the person is liable on conviction, to a fine not exceeding the equivalent in local currency of One Million US Dollars, or to imprisonment for a term not exceeding five (5) years, or to both.

(13) *Penalty for corporations.*

If a body corporate is guilty of an offence under this Law the person is liable on conviction, to a fine not exceeding the equivalent in local currency of One Million US Dollars.

(14) *Daily Offences regarding Pollution.*

If an offence under this Law is committed that results in pollution, on more than one day or is continued for more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued to be committed.

(15) *Corruption-related Offences.*

Any person, in or outside the Territory of Somalia, commits an offence who:

- (a) for himself or other persons requests or receives an improper advantage or accepts an offer thereof in connection with any position, office or assignment, whether private or public;
- (b) for himself or other person requests or receives an improper advantage or accepts an offer thereof in return for influencing the conduct of any position, office or assignment, whether private or public;
- (c) gives or offers any person an improper advantage in connection with his or her position, office or assignment; or
- (d) gives or offers any person an improper advantage in return for influencing the conduct of a position, office or assignment.

## CHAPTER X--OTHER AND FINAL PROVISIONS

### Article 45

#### Transitional Provisions

(1) *Prior Grants*

- (a) All agreements pertaining to Petroleum that were signed prior to the enactment of this Law shall be converted into Production Sharing Agreements in accordance with the provisions of this Law.
- (b) The Minister shall issue Regulations setting out the administrative procedure to be followed, as well as existing contractual obligations to be undertaken,

by Persons who have engaged in or are engaging in Petroleum Operations ("Prior Contractors") pursuant to rights granted by the Somali Democratic Republic on or before December 30, 1990 ("Prior Grants"). Such Regulations shall include the following provisions:

- (i) a Prior Contractor shall have the right to convert its Prior Grant into the form of Authorisation that is most similar to the Prior Grant. A Prior Grant in the form of a concession entitling the Prior Contractor to conduct exclusive Petroleum Operations shall be convertible into a Production Sharing Agreement. A Prior Contractor wishing to convert its Prior Grant shall:
  - a. provide to the Ministry:
  - b. a true copy of a fully executed Prior Grant;
  - c. evidence satisfactory to the Ministry that it was on December 30, 1990 in full compliance with its obligations under the Prior Grant;
  - d. a copy of a record of its performance under the Prior Grant, including the relinquishment of any part of the contract area under the Prior Grant;
  - e. a copy of all data and information required by the Prior Grant to be delivered to the Government;
  - f. identification of the current parties to the Prior Grant, and how the current parties acquired their interest in the Prior Grant from the original parties;
- (ii) agree that its Decommissioning obligations under the new Authorisation shall include Decommissioning of its activities conducted pursuant to the Prior Grant;
- (iii) agree to the terms of a new Authorisation between the Prior Contractor and the Ministry on or before a date specified by the Ministry, which shall not be later than the date described in Section

(2) *Effort to Contact.*

The Ministry shall make reasonable efforts to contact each Prior Contractor to advise them of their rights under subsection 45(1). Where a Prior Grant appears to be held by more than one Person, the Ministry need only make a reasonable effort to contact the Person who appears to the Ministry to be the Operator. No Prior Contractor shall have any right against the Ministry or the Government for a failure by the Ministry to fulfil this subsection 45(2) provided that the Ministry has published a notice of claim to prior concession holders in the Official Gazette.

(3) *Deadline for Conversion.*

If any Prior Grant that has not been converted into a Production Sharing Agreement under this Law pursuant to the provisions of subsection 45(1) on the first anniversary of the coming into force of this Law, then:

- (a) shall terminate and cease to be a binding obligation on the Government on the first anniversary of the coming into force of this Law;
- (b) the Government shall not be liable for any loss, costs, claim or damage resulting from such termination of the Prior Grant; and

- (c) as a sovereign entity, notwithstanding any agreement to the contrary, the Government declares itself immune from any claim made by a Prior Contractor for termination of its Prior Grant.

(4) *Post-1990 Grants.*

Effective on the date of the coming into force of this Law:

- (a) any right to conduct Petroleum Operations in Somalia granted after December 30, 1990 are not binding on the Government;
- (b) the Government shall not be liable for any loss, costs, claim or damage resulting from such termination; and,
- (c) as a sovereign entity, notwithstanding any agreement to the contrary, the Government declares itself immune from any claim made by any Person for termination of any such right.

## **Article 46**

### **Natural resources other than Petroleum resources**

- (1) A Production Sharing Agreement shall not include the grant to a person other than the permit to undertake exploration for and production of natural resources, other than Petroleum resources;
- (2) The right to undertake exploration for and production of natural resources other than Petroleum resources includes scientific, anthropological and archeological research;
- (3) Where natural resources other than Petroleum have been discovered in a Block and the continued activities in other natural resources cannot take place without causing unreasonable inconvenience to the Petroleum Activity conducted by the Authorised Person under the Production Sharing Agreement, the Authority shall decide the extent to which any of the activities shall be postponed in consultation with the relevant authorities;
- (4) The Authority shall take into account:
  - (a) the nature of the discovery made,
  - (b) investments undertaken;
  - (c) the stage at which the activities have reached, or,
  - (d) the duration and extent of the activities and their economic and social impact in relation to the activities conducted in accordance with the Production Sharing Agreement when postponing an activity;

- (5) An Authorised Person whose activities have been postponed may apply for extension of the permit for a period of time corresponding to the postponement;
- (6) Where the postponement only applies to a limited part of the activities which may be conducted in accordance with the permit, the Authority may
  - (a) stipulate a shorter period for the extension
  - (b) refuse the extension, or
  - (c) grant the extension only for part of the area to which the license applies.
- (7) Where the postponement makes the work obligation imposed under the permit impossible to accomplish within the stipulated time limit, the time limit shall be extended;
- (8) Where the Petroleum activities are postponed, the surface rental fee for the extension shall be waived or reduced according to the Authority's discretion and fees paid in advance shall then be refunded.
- (9) Where the postponement is of a particularly long duration, the relevant permit may be revoked;
- (10) The Authority may direct that the party authorized to maintain activities shall wholly, or partly refund the costs incurred and other reasonable casts to the party that has to postpone or curtail activities.

## **Article 47**

### **Entry into Force**

This Law shall enter into force immediately upon signature by the President of the Republic and its publication in the Official Gazette.

## **Article 48**

### **Repealed and Amended legislation**

Where any law or regulation in existence on the effective date of this Law contains provisions that are in conflict with any provision(s) of this Law, the said law or regulation shall be deemed repealed to the extent of the conflict or inconsistency and this Law shall be determinative of the matter in question.

For greater certainty the *Petroleum Law of Somalia*, Law No. XGB/712/08 and Part IV-Hydrocarbons of Law No. 7 of 9 January 1984 approving and containing the *Mining Code*, and any regulations thereunder, are hereby specifically repealed.